

## BACK PAY CALCULATION

**Total Back Pay to December 31, 2020: \$213,682.82<sup>1</sup>**

### **2018 Back Pay: \$5,709.23**

Salary at JSP-15-1<sup>2</sup> (Charlotte)<sup>3</sup> (Pay Periods 17 to 26): \$46,985.77

Actual Salary Received (Pay Periods 17 to 26): \$41,276.54

### **2019 Back Pay: \$49,894.82**

#### Federal Defender

Salary at JSP-15-1 (Charlotte) (Pay Periods 1 to 5): \$23,940.77

Actual Salary Received (Pay Periods 1 to 5): \$21,031.54

#### Fourth Circuit

Salary at JSP-15-1 (RUS) (Pay Periods 6 to 16): \$52,164.54

Actual Salary Received at JSP 14-2 (RUS) (Pay Periods 6 to 10): \$20,830.00

Actual Salary Received at JSP 14-3 (RUS) (Pay Periods 11 to 16): \$25,802.31

#### Non-Judiciary Employment (Remainder of 2019)

Total Compensation<sup>4</sup> at JSP-15-2<sup>5</sup> (RUS) (Pay Periods 17 to 26): \$69,042.89

Actual Income Received<sup>6</sup>: \$27,153.03

Actual Benefits Received (Employer Contribution to HDHP<sup>7</sup>): \$436.50

### **2020 Back Pay: \$158,078.77**

Total Compensation at JSP-15-2 & 15-3 (RUS): \$186,686.63

Actual Income Received<sup>8</sup>: \$27,589.36

Actual Benefits Received (Employer Contribution to HDHP): \$1,018.50

<sup>1</sup> Does not include tax gross up or interest.

<sup>2</sup> Includes increase to JSP-15-1 beginning in Pay Period 17 of 2018 (see Aug. 28, 2018 Request for Personnel Action Form for Plaintiff), based on Defender Organization Classification Systems Manual, *Salary and Experience and Experience Requirements*.

<sup>3</sup> 2018 and 2019 JSP Salary Tables are not available to Plaintiff; therefore, 2018 and 2019 GS Salary Tables are applied.

<sup>4</sup> "All Education" Levels Benefits Ratio applied (see Glossary).

<sup>5</sup> Pay Period 17 is used as anniversary for Grade 15 step increases.

<sup>6</sup> See attached 2019 W-2.

<sup>7</sup> See <https://files.nc.gov/ncshp/documents/open-enrollment-documents/2020/High-Deductible-Health-Plan.pdf>. 2020 employer contribution rates are applied because those numbers are available.

<sup>8</sup> See attached Earnings Statement Dated June 26, 2020. Plaintiff also requested a copy of her final earnings statement from her employer but has not yet received a response.

| <b>Lost Earnings Based on Social Security Retirement Age</b> |                                    |                                     |                             |                    |
|--|------------------------------------|-------------------------------------|-----------------------------|--------------------|
| Total Compensation at Federal Defender Office                |                                    |                                     |                             |                    |
| Judiciary Salary Plan  | OPM Within-Grade Step Increases    | Total Wages Earned Within Each Step | Annual Compensation         | Total Compensation |
| \$ 136,617.60  | 1                                  | \$ 136,617.60                       | \$ 231,144.14               | \$ 231,144.14      |
| \$ 140,887.41  | 2                                  | \$ 281,774.83                       | \$ 238,368.26               | \$ 476,736.52      |
| \$ 145,157.23  | 2                                  | \$ 290,314.45                       | \$ 245,592.38               | \$ 491,184.76      |
| \$ 149,427.04  | 2                                  | \$ 298,854.08                       | \$ 252,816.50               | \$ 505,633.00      |
| \$ 153,696.85  | 3                                  | \$ 461,090.55                       | \$ 260,040.62               | \$ 780,121.87      |
| \$ 157,966.66  | 3                                  | \$ 473,899.99                       | \$ 267,264.74               | \$ 801,794.23      |
| \$ 162,236.47  | 3                                  | \$ 486,709.42                       | \$ 274,488.87               | \$ 823,466.60      |
| \$ 166,506.29  | 19                                 | \$ 3,163,619.45                     | \$ 281,712.99               | \$ 5,352,546.75    |
|  | 35                                 |                                     |                             | \$ 9,462,627.88    |
|  | <b>Total Wages Value</b>           | \$ 5,592,880.37                     | <b>Total Benefits Value</b> | \$ 3,869,747.51    |
| Total Offset Compensation                                    |                                    | Total Lost Compensation             |                             |                    |
| Effective Court Appointed Hourly Rate                        | Total Court Appointed Compensation | Total Lost Wages                    | Total Lost Compensation     |                    |
| \$ 21.90   | \$ 1,594,320                       | \$ 3,998,560.37                     | \$ 7,868,307.88             |                    |
| \$ 36.90   | \$ 2,686,320                       | \$ 2,906,560.37                     | \$ 6,776,307.88             |                    |
| \$ 38.28   | \$ 2,786,784                       | \$ 2,806,096.37                     | \$ 6,675,843.88             |                    |
| \$ 53.28   | \$ 3,878,784                       | \$ 1,714,096.37                     | \$ 5,583,843.88             |                    |

## GLOSSARY

**Social Security Retirement Age:** The age of eligibility for full social security retirement benefits, or age 67 (*see* <https://www.ssa.gov/benefits/retirement/planner/agereduction.html>). Calculation assumes plaintiff retires at the end of the year of eligibility. Lost future earnings calculation begins as of January 1, 2021.

**Judiciary Salary Plan:** The pay scale applicable to judiciary employees, including research and writing attorneys in federal defender organizations. The pay scale used was effective January 6, 2020 and includes a 15.95% Locality Payment for the Rest of the United States (*see* [https://www.uscourts.gov/sites/default/files/2020/jsp\\_rest\\_of\\_the\\_us\\_2020.pdf](https://www.uscourts.gov/sites/default/files/2020/jsp_rest_of_the_us_2020.pdf)), and the 2021 base pay increase proposed by the Executive Branch (*see* <https://www.whitehouse.gov/briefings-statements/message-congress-2021-alternative-plan-pay-adjustments/>). The pay scale calculations begin at JSP-15, Step 3, the salary applicable under the *Salary and Experience* and *Experience Requirements* sections of the Defender Organization Classification Systems Manual.

**OPM Within-Grade Increases:** The periodic increases in a permanent judiciary employee's rate of basic pay from one step of the grade of his or her position to the next higher step of that grade, upon meeting requirements established by law (*see* <https://www.opm.gov/policy-data-oversight/pay-leave/pay-administration/fact-sheets/within-grade-increases/>).

**Total Wages Earned Within Each Step:** The annual wages earned at each step multiplied by the number of years in the waiting period for each step.

**Annual Compensation:** The annual compensation, defined as wages plus benefits, earned within each step, based on compensation data applicable to federal employees at all education levels. The data come from an April 2017 Congressional Budget Office study (*see* <https://www.cbo.gov/system/files/115th-congress-2017-2018/reports/52637-federalprivatepay.pdf>), which compares the relative value of wages and benefits for federal employees. Because federal employees with professional degrees, on average, tend to have shorter tenures with the federal government, the "professional" benefits-to-wages ratio likely underestimates the value of benefits for a long-tenured professional employee. Therefore, the "all education" benefits-to-wages ratios from the CBO study is applied.

**Total Compensation:** The annual compensation for federal employees earned at each step multiplied by the number of years in the waiting period for each step.

**Total Wages Value:** The total wages that would have been earned at the Federal Defender Office based on Social Security Retirement Age.

**Total Benefits Value:** The total benefits value that would have been earned at the Federal Defender Office based on Social Security Retirement Age.

**Effective Court Appointed Hourly Rate:** The effective hourly rate for court-appointed indigent defense work in North Carolina, after accounting for overhead costs. The overhead costs come from a 2019 private appointed counsel effective pay rate study conducted by the North Carolina Office of Indigent Defense Services (*see*

<http://www.ncids.org/FY19%20Effective%20Pay%20Rate%20Overhead%20Report.pdf>). Alternative effective pay rate scenarios are assumed using the highest non-capital appellate court-appointed hourly rate of \$75 and the lowest non-capital appellate court-appointed hourly rate of \$60 (*see* [http://www.ncids.org/rateinfo/PAC\\_Rates\\_Chart.pptx](http://www.ncids.org/rateinfo/PAC_Rates_Chart.pptx)), which are offset by the average attorney overhead rate of \$38.10 and the median attorney overhead rate of \$21.72, respectively.

**Total Court Appointed Compensation:** The total court-appointed compensation that will be earned based on Social Security Retirement Age, assuming 40 compensated hours per week and 52 working weeks per year.

**Total Lost Wages:** The difference between Total Wages Value and Total Court Appointed Compensation for each alternative scenario based on the Effective Court Appointed Hourly Rate.

**Total Lost Compensation:** The sum of Total Lost Wages and Total Benefits Value for each alternative scenario based on the Effective Court Appointed Hourly Rate. Calculations do not include appropriate tax gross up.